

Attorney Docket No.: **BERN-0082**
Inventors: **Eric F. Bernstein**
Serial No.: **10/533,353**
Filing Date: **June 16, 2005**
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REMARKS

Claims 1-7 are pending in the instant application.
Claims 1-7 have been subjected to the following Restriction Requirement:

Group I, claims 1-4, drawn to a method of protecting humans exposed to sunlight against photoaging and sunburn comprising applying to skin of a human a composition comprising caffeine or a compound structurally similar to caffeine;

Group II, claims 5-6, drawn to a method of protecting individuals with heightened sensitivity to the sun from damage resulting from the sun comprising topically applying to the skin of an individual with a heightened sensitivity to the sun a composition comprising caffeine or a compound structurally similar to caffeine prior to exposure of the individual to the sun;

Group III, claim 7, drawn to a pharmaceutical composition for prevention of photoaging and sunburn comprising caffeine or a compound structurally similar to caffeine and a second sunscreen or free radical scavenger.

The Examiner suggests that the inventions of Groups I, II and III do not related to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature. The Examiner suggests that the common technical

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feature in all groups is a composition comprising caffeine or a compound structurally similar to caffeine. The Examiner suggests that this element cannot be a special technical feature under PCT Rule 13.2 because this element is shown in the prior art. The Examiner suggests that Schroer et al. (U.S. Patent 3,957,994) teaches a composition comprising theophylline useful in the treatment of inflammation of the skin such as sunburn.

Applicant respectfully traverses this Restriction Requirement.

At the outset, Applicants respectfully disagree with the Examiner's characterization of the general inventive concept. The general inventive concept is protection of the skin against photoaging and sunburn with a composition comprising caffeine, a concept not taught or suggested by Schroer.

Further, it is respectfully pointed out that all claims were searched during the PCT phase of the instant application by the same Examiner. Accordingly, the Examiner's suggestion that Groups I, II and III should be restricted based upon lack of unity contradicts the search already conducted in the PCT phase.

In addition, since a search of all claims has already been conducted, inclusion of all groups in the instant

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application places no additional burden on the Examiner.

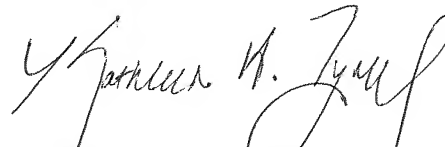
See MPEP 803.

Thus, reconsideration of this Restriction Requirement and prosecution of all pending claims is respectfully requested.

In an earnest effort to be completely responsive to this Office Communication, however, Applicants elect Group I, claims 1-4, with traverse.

Applicant believes that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,



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